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IN THE
Supreme Court of the United States

No. [REDACTED] October Term, 1964

DEPARTMENT OF MENTAL HYGIENE OF
THE STATE OF CALIFORNIA,
Petitioner

v.

EVELYN KIRCHNER, ADMINISTRATRIX OF
THE ESTATE OF ELLINOR GREEN VANCE,
Respondent

BRIEF OF THE COMMONWEALTH OF PENN-
SYLVANIA, AMICUS CURIAE, IN SUPPORT
OF PETITION OF THE DEPARTMENT OF
MENTAL HYGIENE OF THE STATE OF CALI-
FORNIA FOR WRIT OF CERTIORARI TO THE
SUPREME COURT OF THE STATE OF CALI-
FORNIA

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Harrisburg, Pa.

Argument

BRIEF OF THE COMMONWEALTH OF PENNSYLVANIA, AMICUS CURIAE, IN SUPPORT OF PETITION OF THE DEPARTMENT OF MENTAL HYGIENE OF THE STATE OF CALIFORNIA FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF CALIFORNIA

The Commonwealth of Pennsylvania, as Amicus Curiae, respectfully supports the Petition of the State of California, Department of Mental Hygiene (hereinafter referred to as "Petition"), praying that a Writ of Certiorari issue to review the judgment of the Supreme Court of the State of California entered January 30, 1964, rehearing denied February 26, 1964.

For Opinions Below, Jurisdiction, Questions Presented, Statutes Involved, Statement of the Case and How the Federal Question Arose, see Petition, pages 1 to 6.

INTEREST OF THE COMMONWEALTH OF PENNSYLVANIA

While the Commonwealth of Pennsylvania endorses the Reasons Why a Writ of Certiorari Should Be Granted, as stated in the Petition at pages 6 to 23, this brief is respectfully submitted for the purpose of acquainting this Honorable Court with the substantial interest of the Commonwealth of Pennsylvania in a prompt and final judicial determination of the constitutional issue raised in this case.

Argument

The law of Pennsylvania imposes liability on patients and their relatives for costs of care in State Mental Hospitals and State Schools for epileptics and the retarded, see Vol. 71 Purdon's Penna. Statutes Annotated, Sections 1781, 1783; Vol. 62 Purdon's Penna. Statutes Annotated, Sections 1973, 1974; Vol. 50 Purdon's Penna. Statutes Annotated, Sections 1361, 1401.

Collections from patients and their relatives pursuant to these provisions are substantial. For example, for the period July 1, 1962 to June 30, 1963, the Commonwealth of Pennsylvania collected from patients and their relatives for costs of care in these institutions a total of \$14,179,-489.96.

It appears inevitable that henceforth and until such time as the constitutional issue presented by this case is finally resolved, the Commonwealth claims against relatives will be contested on the basis of the decision of the Supreme Court of the State of California in this case. For example, on May 4, 1964, in *Pennhurst State School v. Estate of Samuel Goodhartz*, No. A-68, September Term, 1963, the Supreme Court of New Jersey, in a suit for reimbursement by the Commonwealth of Pennsylvania against the estate of the deceased father of its patient, reversed a dismissal of the suit based on procedural grounds. In remanding the case for trial, the Court said:

"The parties may there raise any and all issues they determine appropriate. * * * Thus, they may seek determination, inter alia, of the important constitutional and jurisdictional questions dealt with in *The Department of Mental Hygiene v. Kirchner*, 36 Cal. Rptr., 488, 388 P. 2d 720 (1964) and *Calif. v. Copus*, [158 Texas 196, 309 S.W. 2d 277, cert. denied, 356 U. S. 967]."

Argument

CONCLUSION

For the foregoing reasons, the Commonwealth of Pennsylvania respectfully submits that certiorari should issue to review the decision of the court below.

Respectfully submitted,

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Dated: May 27, 1964